

Michael D. Nilsen  
11300 W. Widgeon Way  
Clearlake Oaks, CA 95423  
707-245-7001  
Pro Se

**FILED**

JUL 24 2017

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
*Sn*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Michael Nilsen

Plaintiff,

vs.

JUDGE ANDREW S. BLUM;  
JUDGE ARNOLD M. ROSENFELD;  
JUDGE MICHAEL S. LUNAS;  
SUPERIOR COURT of CALIFORNIA,  
COUNTY of LAKE;

Defendants.

CASE NO:

**CV 17 4175**

**NJV**

VERIFIED COMPLAINT FOR DAMAGES  
CIVIL RIGHTS VIOLATIONS  
U.S.C. TITLE 42 §1983, §1985, §1986, §1988

1. UNLAWFUL ARREST
2. FALSE ARREST & IMPRISONMENT
3. KIDNAPPING
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
5. CONSPIRACY
6. NEGLECT TO PREVENT DAMAGE
7. 5<sup>TH</sup> & 14 AMENDMENT VIOLATIONS

DEMAND FOR TRIAL BY JURY

**INTRODUCTION AND OPENING STATEMENT**

This is an action brought by Plaintiff against State Judicial Officials acting under the color of Law for civil rights violations, conspiracy, neglect to prevent damages, violations of due process of Plaintiffs 4<sup>th</sup>, 5<sup>th</sup> & 14<sup>th</sup> amendment protections; involving unlawful arrest, false imprisonment, kidnapping, loss of social standing and intentional infliction of emotional distress.

1 At all times relevant herein the Defendants, all State Judicial Officials acting under the  
2 color of Law and outside the scope of their jurisdiction and authority, willfully caused Plaintiff a  
3 damage and physical injury, and in so doing, violated clearly established law, as those laws apply  
4 to Plaintiff's rights protected under the Constitution, particularly under the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup>  
5 Amendments.  
6

7 Be it known, each of the state officials herein have sworn an "oath of office" in regards to  
8 their duties and therefore each of their acts under "color" of state law is in direct violation of  
9 their oath of office and equates to CRIMINAL CONSPIRACY under section 1985 and 1986,  
10 Defendant's actions is tantamount to nothing less than CRIMINAL TREASON against the  
11 United States Constitution and the people of the United States AND California.  
12

### 13 I. JURISDICTION AND VENUE

14 1. Plaintiff brings this action pursuant to Title 42 USC sections §1983, §1985, §1986  
15 and §1988, and invokes the jurisdiction of this court pursuant to Title 28 USC Section §1343  
16 (A)(3)(4), Section §1331, and pursuant to the 5<sup>th</sup> & 14<sup>th</sup> Amendment, and the Civil Rights Act of  
17 1870. At all times relevant, all of the causes of action were committed within the geographical  
18 jurisdiction of this court. and supplemental jurisdiction exists for any state law claims pursuant to  
19 28 U.S.C. §1367, Jurisdiction arises under Cal. Civ. Pro. §410.10. Defendants conduct business  
20 in the state of California and therefore, personal jurisdiction is established.  
21

### 22 II. PARTIES

23 2. Plaintiff Michael Nilsen, (hereinafter Nilsen), at all times relevant herein, lived at  
24 11300 W. Widgeon Way, in the city of Clearlake Oaks, Lake County, California, 95423.  
25

26 3. Defendant JUDGE ANDREW S. BLUM , (hereinafter BLUM) at all times  
27 relevant to this complaint was a Judicial Officer employed by the SUPERIOR COURT of  
28

1 CALIFORNIA, COUNTY of LAKE. BLUM is believed to be a resident of Lake County,  
2 California, and is being sued individually and in his official capacity.

3 4. Defendant JUDGE ARNOLD M. ROSENFELD, (hereinafter ROSENFELD) at  
4 all times relevant to this complaint was a Judicial Officer employed by the SUPERIOR COURT  
5 of CALIFORNIA, COUNTY of LAKE. ROSENFELD is believed to be a resident of Sonoma  
6 County, California, and is being sued individually and in his official capacity.  
7

8 5. Defendant JUDGE MICHAEL A LUNAS, (hereinafter LUNAS) at all times  
9 relevant to this complaint was a Judicial Officer employed by the SUPERIOR COURT of  
10 CALIFORNIA, COUNTY of LAKE. LUNAS is believed to be a resident of Lake County,  
11 California, and is being sued individually and in his official capacity.  
12

13 6. Defendant SUPERIOR COURT of CALIFORNIA, COUNTY of LAKE,  
14 (hereinafter LCSC), is a municipal corporation within the State of California, 255 North Forbes  
15 Street, Lakeport, CA 95453. At all times relevant to this complaint it either directly or indirectly  
16 trained, controlled, made policy for, employed, supervised, compensated, enriched, or rewarded  
17 some or all of the other defendants for their actions throughout and beyond this case. The LCSC  
18 is being sued as a PERSON.<sup>1</sup>  
19

20 7. Defendants BLUM, ROSENFELD, and LUNAS are compensated, enriched, and  
21 rewarded as Judicial Officers by the SUPERIOR COURT of CALIFORNIA, COUNTY of  
22 LAKE. At all relevant times they were working out of and acting in such capacity as the agent,  
23 servant, and employee of SUPERIOR COURT of CALIFORNIA, COUNTY of LAKE.  
24  
25  
26  
27

28 <sup>1</sup> Per Monell v. Department of Social Services of City of New York, 436 U.S. 658, 98 S. Ct. 2018,  
56 L. Ed. 2d 611 (1978)

1           8. Defendant ROSENFELD, upon information and belief, is a retired Judicial  
2 Officer and a traveling Justice within the Assigned Judges Program, and was assigned to  
3 NILSENs case at the time of the violations of his constitutional protections.

4                           **III. SIMPLE STATEMENT OF FACTS**

5           9. Nilsen was arrested in Lake County on April 10, 2015 and charged in a criminal  
6 case CR938961 for DUI.

7  
8           10. During the course of Nilsen's hearings, Nilsen filed three appeals to the Appellate  
9 Department of the SUPERIOR COURT OF CALIFORNIA, COUNTY OF LAKE.

10           11. When an appeal is filed, the Superior Court loses jurisdiction until the Appellate  
11 Department renders its Judicial determination, makes its ruling or order, executes the ruling or  
12 order, and the remittitur is returned from the Appellate Department to the Superior Court. This  
13 remittitur will be placed into the file and recorded in the Registry of Actions. Until that has  
14 happened, the Superior Court nor its Judicial Officers have no or are absent jurisdiction.  
15

16           12. Judges and the Superior Court enjoy complete judicial and absolute immunity for  
17 all things, other than acting absent jurisdiction.  
18

19           13. A Judicial Officer or the Superior Court acting without jurisdiction is acting under  
20 color of law, and loses its judicial and absolute immunity.

21           14. As of the date of this complaint filing, not one of the three appeal Remittiturs has  
22 been returned to the Superior Court with an executed judicial determination, recorded in the  
23 Registry of Actions and placed into the file.  
24

25           15. As to Defendants LCSC, and BLUM of the Superior Court, the appeals to the  
26 appellate department from the Superior Court are also ruled on by BLUM and LUNAS, who are  
27  
28

1 not only on the Appellate Department panel, but one the justices whom Nilsen had to constantly  
2 appear in Superior Court, and BLUM also is the Presiding Judge of the LCSC.

3 16. Nilsen has had several appearances between BLUM and LUNAS in the Superior  
4 Court from January 2017, and on each occasion challenged the Defendants that the remittitur has  
5 not been returned.  
6

7 17. Since Defendant BLUM is not only in the Superior Court but the Presiding Judge  
8 of the Superior Court, and is head of the Appellate Department panel, each (the Appellate  
9 Department and the lower Superior Court) is factually aware of the status of the remittitur and  
10 loss of jurisdiction in the lower Superior Court.  
11

12 18. All Nilsen appearances in 2017, without a properly returned remittitur, are absent  
13 jurisdiction; hence all actions of the Judicial Officers and the Superior Court do not have judicial  
14 or absolute immunity.

15 19. All Nilsen appearances in 2017, orally during court process and in writing, Nilsen  
16 have informed all Defendants that they are acting absent or in excess of their jurisdiction.  
17

18 20. Nilsen has on at least three occasions notified the California Supreme Court, filed  
19 complaints with the Judicial Council, informed the Governor, Attorney General, and LCSC by  
20 and thru the Presiding Judge, Defendant BLUM that their actions are absent jurisdiction.  
21

22 21. On May 12, 2017 Nilsen appeared before Defendant BLUM and BLUM set  
23 NILSEN for trial on May 17, 2017.

24 22. On May 17, 2017 Nilsen appeared before Defendant ROSENFELD, orally made  
25 an objection and non-stipulation that ROSENFELD had any jurisdiction, and if ROSENFELD  
26 felt he had any jurisdiction to put it on the record. ROSENFELD did not put anything on the  
27 record. Nilsen left the court hearing.  
28

1           23.     On May 17, 2017 after Nilsen left the court hearing, ROSENFELD and the  
2 People has improper ex-parte hearings in chambers. ROSENFELD then returned to open court  
3 and issued a bench warrant for non-appearance of Nilsen for 5 times the original bail amount.

4           24.     Nilsen was arrested on May 17, 2017 and confined, and returned to LUNAS on  
5 May 18, 2017 for court hearing, Nilsen informed LUNAS of the May 17, 2017 facts and again  
6 challenged LUNAS of the remittitur, and LUNAS told Nilsen to file a motion. LUNAS held  
7 Nilsen into custody.  
8

9           25.     On May 19, 2017 Nilsen was again before BLUM for trial readiness, again  
10 informed and challenged BLUM regarding return of the remittitur, and BLUM told Nilsen to file  
11 a motion; then set Nilsen for trial May 24, 2017.  
12

13           26.     Nilsen had to bail out for his freedom.

14           27.     Nilsen was unlawfully arrested without a lawful 4<sup>th</sup> Amendment warrant or Bench  
15 warrant. The Defendants acted without authority, in excess of their jurisdiction, and beyond the  
16 scope of their powers.  
17

18           28.     Nilsen was falsely imprisoned by Defendants acting absent or in excess of any  
19 jurisdiction. The false imprisonment was willful and unlawful, without Nilsen's consent and over  
20 his objection.

21           29.     Nilsen was seized and kidnapped, held for ransom of 5 times bail.

22           30.     Defendant LCSC as a policy or custom neglected to train, supervise, control,  
23 correct the abuse of authority, or discourage the unlawful use of authority of the Defendant  
24 Judicial officers and agents. The failure to train Defendant Judicial officers included the failure  
25 to instruct them in applicable provisions of the United States Constitution and applicable  
26 California statutes and law dealing in use of unlawful arrest of citizens, false imprisonment, and  
27  
28

1 on kidnapping of citizens absent jurisdiction or a 4<sup>th</sup> Amendment compliant warrant, on seizure  
2 of property or persons without valid warrants.

3 31. Defendant LCSC has created a policy and custom or to promote a policy or  
4 custom to act in concert with the other Defendants herein to violate Nilsen's rights.

5 32. Defendants LCSC is without Subject Matter Jurisdiction, or authority, lack of  
6 probable cause, lack of a crime, lack of a 4<sup>th</sup> Amendment warrant based upon a crime, lack of  
7 any testifying witness(es) other than Defendant Judicial officers with total disregard for Nilsen's  
8 rights under clearly established law.  
9

10 33. Nilsen has been damaged, has Article III standing.  
11

#### 12 IV. FEDERAL CAUSES OF ACTION

13 34. Nilsen re-alleges and incorporates by reference the facts and allegations contained  
14 in the Paragraphs above as though fully set forth herein.

15 35. The herein described actions, engaged in under color of state authority by the  
16 Defendants, including Defendant LCSC, sued as a person, responsible because of its  
17 authorization, condoning, and ratification thereof for the acts of its Judicial officers, agents, and  
18 servants, deprived Nilsen of rights secured to him by the constitution of the United States,  
19 including, but not limited to, his fourth amendment right to be free from unlawful search and  
20 seizure of his person, his eighth amendment right to be free from cruel and unusual punishment,  
21 and his fifth and fourteenth amendment right to substantive and procedural due process of law,  
22 and the right to be free from unjustified breach of peace by the officers and agents of LCSC as  
23 contained in the United States Constitution. The actions of Defendants shocks the public  
24 conscience.  
25  
26  
27  
28

1       36. Defendant LCSC, being sued as a person, maintains a pattern and practice of  
2 depriving people of their liberty, property, and breeching the peace and causing damage without  
3 probable cause or proper foundation as secured by the United States Constitution as  
4 demonstrated deprivation of Nilsen's rights. This again shocks the public conscience.

5       37. Defendant LCSC failed and neglected to properly train and supervise its  
6 employees, and especially its Judicial officers, with respect to individual rights as protected by  
7 the Constitution of the United States as evidenced by the several abuses and damages sustained  
8 by Nilsen.  
9

10                   **V. FIRST CAUSE OF ACTION – UNLAWFUL ARREST**  
11                   **(AS TO DEFENDANTS ROSENFELD AND LCSC)**  
12

13       38. Nilsen re-alleges and incorporates by reference the facts and allegations contained  
14 in the Paragraphs above as though fully set forth herein.

15       39. At all times relevant, listed Defendants, were acting within the scope of their  
16 presumed duties as employees or agents of Defendant LCSC when depriving Nilsen of his rights,  
17 liberty and freedom from unprovoked attacks and unlawful arrest<sup>2</sup> and other violations of  
18 established laws protected by the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments.  
19

20       40. Nilsen has never missed a court date, appearance or hearing since inception of his  
21 state case.  
22

23       41. On May 17, 2017 Defendants ROSENFELD AND LCSC acted under color of  
24 state law when acting absent jurisdiction or in excess of their jurisdiction. There was no error or  
25 mistake, ROSENFELD and LCSC knowingly and willfully acted with intent and without  
26

27 <sup>2</sup> It has been held that an action lies against an officer under 42 U.S.C.A. § 1983 for the  
28 deprivation of a federally protected right occasioned by an unlawful arrest and detention effected  
under color of state law.



1 probable cause or jurisdiction, issuing an erroneous bench warrant for failure to appear on May  
2 17, 2017 when Plaintiff did in fact appear.

3 42. These actions subjected Nilsen to deprivation of his rights, privileges, and  
4 immunities secured by the Federal Constitution and laws by imprisonment, loss of freedom, and  
5 costs of bail willfully and intentionally set in an amount five times over original bail.  
6

7 **VI. SECOND CAUSE OF ACTION – FALSE ARREST & IMPRISONMENT**  
8 **(AS TO DEFENDANTS ROSENFELD & LCSC)**

9 43. Nilsen re-alleges and incorporates by reference the facts and allegations contained  
10 in the Paragraphs above as though fully set forth herein.

11 44. On May 17, 2017 Defendants ROSENFELD AND LCSC acted under color of  
12 state law when acting absent jurisdiction or in excess of their jurisdiction. There was no error or  
13 mistake, ROSENFELD and LCSC knowingly, willfully and intentionally acted with intent and  
14 without probable cause or jurisdiction, issuing an erroneous bench warrant for failure to appear  
15 on May 17, 2017 when Plaintiff did in fact appear.  
16

17 45. Specific actions of these Defendants, the intentional issuance of an erroneous  
18 bench warrant without probable cause or jurisdiction, causing Nilsen to be falsely arrested<sup>3</sup> and  
19 incarcerated for days without his consent and over his objections.  
20

21 46. At all times relevant, listed Defendants, were acting within the scope of their  
22 presumed duties as employees or agents of Defendant LCSC when depriving Nilsen of his rights,  
23

24 \_\_\_\_\_  
25 <sup>3</sup> The tort of false imprisonment consists of unlawful restraint or confinement, and the cause of  
26 action arises immediately on the commission of the wrongful act. False arrest and imprisonment  
27 are the same tort. The elements of a tortious claim of false imprisonment are: (1) the  
28 nonconsensual, intentional confinement of a person, (2) without lawful privilege, and (3) for an  
appreciable period of time, however brief.

liberty and freedom from unprovoked attacks and false imprisonment and other violations of established laws protected by the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments.

**VII. THIRD CAUSE OF ACTION – KIDNAPPING**  
**(AS TO DEFENDANTS ROSENFELD & LCSC)**

47. Nilsen re-alleges and incorporates by reference the facts and allegations contained in the Paragraphs above as though fully set forth herein.

48. On May 17, 2017 Defendants ROSENFELD AND LCSC acted under color of state law when acting without jurisdiction or in excess of their jurisdiction. There was no error or mistake, ROSENFELD and LCSC knowingly and willfully acted with intent and without probable cause or jurisdiction, issuing an erroneous bench warrant for failure to appear on May 17, 2017 when Plaintiff did in fact appear.

49. Specific actions of these Defendants, the intentional issuance of an erroneous bench warrant without probable cause or jurisdiction, causing Nilsen to be kidnapped.<sup>4</sup>

50. At all times relevant, listed Defendants, were acting within the scope of their presumed duties as employees or agents of Defendant LCSC when depriving Nilsen of his rights, liberty and freedom from unprovoked attacks and unlawful kidnapping and other violations of established laws protected by the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments.

**VIII. FOURTH CAUSE OF ACTION – INTENTIONAL INFLICTION OF**  
**EMOTIONAL DISTRESS (AS TO ALL DEFENDANTS)**

51. Nilsen re-alleges and incorporates by reference the facts and allegations contained in the Paragraphs above as though fully set forth herein.

---

<sup>4</sup> Seizing a person for ransom, reward, or extortion does not require asportation of the victim. Penal Code § 209 merely requires that the kidnapper “hold or detain” the victim. The crime of simple kidnapping, as distinguished from aggravated forms of the offense, is not a crime that requires specific intent.

1           52.     The ultimate facts constituting the outrageous conduct underlying the cause of  
2 action outlined below:

- 3           a. All Defendants continuing to intimidate and threaten Nilsen upon each court  
4 appearance, and intentionally acting absent jurisdiction as no remittitur being  
5 returned;  
6           b. All Defendants not validating or verifying the remittitur or jurisdiction has been  
7 returned to the Superior Court;

8           53.     Defendant's actions were outrageous, intentional and malicious, and done with  
9 reckless disregard of the fact that the actions would certainly cause Nilsen to suffer severe  
10 emotional and physical distress.<sup>5</sup>

11  
12           54.     At all times relevant, all Defendants, were acting within the scope of their  
13 presumed duties as employees or agents of Defendant LCSC when depriving Nilsen of his rights,  
14 liberty and freedom from unprovoked attacks, unlawful arrest, unlawful false imprisonment,  
15 unlawful kidnapping, and loss of standing causing fear and emotional distress. Nilsen suffered  
16 both physical and emotional cruel and unusual punishment in violation of the unreasonable  
17 actions of Defendants on May 17, 2017 and other violations of established laws protected by the  
18 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments. The Defendants acted with intent to inflict the emotional distress  
19 injury and or the realization that the injury was substantially certain to result from their conduct  
20 and specifically directed their actions to Nilsen.  
21

22  
23           55.     Nilsen is suffering severe fear and emotional distress, anxiety, fear of authority  
24 and loss of faith in its Government and Judicial officers as a direct cause of Defendants actions.

25 \_\_\_\_\_  
26 <sup>5</sup> A cause of action for intentional infliction of emotional distress exists when there has been (1)  
27 extreme and outrageous conduct by the defendant with the intention of causing, or reckless  
28 disregard of the probability of causing, emotional distress; (2) the plaintiff has suffered severe or  
extreme emotional distress; and (3) the defendant's outrageous conduct was the actual and  
proximate causation of the emotional distress.

1 Nilsen constantly fears of being unlawfully arrested, unlawfully false imprisoned and unlawfully  
2 kidnapped again, for no good or lawful reason, and each time Nilsen sees Government officials  
3 and Judicial officers Nilsen suffers emotional distress due to unlawful acts by Defendant LCSC  
4 and its Judicial officers Defendants.

5  
6 56. As a proximate result of the acts of all Defendant's, Plaintiff's suffered  
7 manifestations of severe emotional distress, specifically in the form of humiliation, mental  
8 anguish, anxiety, emotional distress, psychosis, loss of sleep, loss of appetite, and fear. The acts  
9 of all Defendants have injured Nilsen in mind and body. Some of the manifestations of  
10 Defendant ROSENFIELDS conduct on Nilsen, upon being arrested without probable cause when  
11 the LCSC and ROSENFIELD did not have jurisdiction to proceed, Nilsen noticed changes to his  
12 well-being. This was discovered by Nilsen and by others who reported to Nilsen the following  
13 observations. Nervousness, becoming sick right after the court appearances or court process,  
14 stress, unable to focus or keep a train of thought for a period of time, loss of sleep, loss of  
15 appetite, lack of patience with others and anger right after being falsely arrested and incarcerated.

16  
17  
18 57. All the Defendant's conduct was done knowingly, willfully, and with malicious  
19 intent, and Nilsen is entitled to punitive damages in an amount to be determined by proof at trial.

20 **IX. FIFTH CAUSE OF ACTION – CONSPIRACY §1985**  
21 **(AS TO ALL DEFENDANTS)**

22  
23 58. Nilsen re-alleges and incorporates by reference the facts and allegations contained  
24 in the Paragraphs above as though fully set forth herein.

25 59. Nilsen being arrested deprived him of equal protection, the final act in furtherance  
26 of conspiracy, and injury constituting deprivation of his rights resulting therefrom.  
27  
28

60. Nilsen alleges all Defendants acted in concert<sup>6</sup> and continued to bounce Nilsen from courtroom to courtroom in the Superior Court to inflict injury, aware that the remittitur and thus jurisdiction was absent in the lower Superior Court.

61. All of the Defendants, at all times herein relevant, acted in bad faith, wantonly, recklessly, willfully, maliciously, and “in concert”<sup>7</sup> with additional state officers showing a deliberate indifference towards Nilsen and Nilsen’s rights protected, and guaranteed by the Constitution, with the direct intent and sole purpose of injuring, humiliating, vexing, oppressing, and causing mental anguish to Nilsen, by the reason of which Nilsen is entitled to an award of punitive damages.

62. As a proximate and direct result of the actions of the Defendants herein, Nilsen’s rights were knowingly violated in direct violation of clearly established Federal law. Nilsen is still pending in state court action and in constraint of liberty due to the unreasonable and unlawful actions of Defendants acting in concert and committed under the “Color of Law”.

**X. SIXTH CAUSE OF ACTION – NEGLECT TO PREVENT DAMAGE §1986**  
**(AS TO ALL DEFENDANTS)**

63. Nilsen re-alleges and incorporates by reference the facts and allegations contained in the Paragraphs above as though fully set forth herein.

64. Section §1986<sup>8</sup> allows cause of action against party who had knowledge of §1985

<sup>6</sup> “Civil conspiracy” is combination of two or more persons acting in concert to commit unlawful act, or to commit lawful act by unlawful means, the principal element of which is agreement between parties to inflict a wrong against or injury upon another, and overt act that results in that damage.

<sup>7</sup> The elements of a claim under § 1985(3) are: (1) a conspiracy; (2) to deprive plaintiff of equal protection or equal privileges and immunities; (3) an act in furtherance of the conspiracy; and (4) an injury or deprivation resulting therefrom.

<sup>8</sup> Cause of action is provided by §1986 against anyone who, having knowledge that any wrongs about to be done and mentioned in §1985 are about to be committed and having power to prevent

1 conspiracy, had power to prevent it, and then failed to do so.

2 65. During the course of the 2017 court appearances, absent jurisdiction and in  
3 violation of due process, each Defendant had the knowledge and power to stop the actions of the  
4 conspiracy or the other parties acting in concert.

5 66. Each Defendant had a duty and obligation to stop the wrongdoings of all the other  
6 Defendants, and failed to do so.

7  
8 **XI. SEVENTH CAUSE OF ACTION – 5<sup>TH</sup> & 14<sup>TH</sup> AMENDMENT VIOLATIONS**  
9 **(AS TO ALL DEFENDANTS)**

10 67. Nilsen re-alleges and incorporates by reference the facts and allegations contained  
11 in the Paragraphs above as though fully set forth herein.

12 68. Nilsen was denied his procedural and substantive due process rights afforded by  
13 due process as guaranteed by the 5<sup>th</sup> and 14<sup>th</sup> Amendments because of the actions of the  
14 Defendants.

15 69. Nilsen is entitled to fair hearings regarding his state court process.

16 70. The Due Process Clause of the Fifth and Fourteenth Amendment to the United  
17 States Constitution guarantees certain fundamental rights, including the right to a fair and  
18 meaningful hearing prior to the deprivation of liberty or property.

19 71. Nilsen's loss of liberty by a false and unlawful bench warrant for 5 times the  
20 original case amount by a court lacking jurisdiction is prime facie evidence of his damage by the  
21 Defendants violative actions.

22 72. Nilsen was not provided fair and unbiased hearings in the Superior Court by all  
23 Defendants due to Defendants not following California laws, rules of court and procedure;  
24 committing fraud upon the court by acting without jurisdiction.

25  
26  
27  
28 or aid, neglects to do so.

73. Nilsen was injured and his substantive<sup>9</sup> and procedural<sup>10</sup> due process rights being violated by Defendants, who are Jurists and knew or should have known that there is a substantial risk of harm. Defendant's actions were willful and intentional and done with malice and deliberate indifference.

## XII. PRAYER AND DEMAND

74. Nilsen re-alleges and incorporates by reference the facts and allegations contained in the Paragraphs above as though fully set forth herein.

75. WHEREFORE Nilsen demands judgment against the defendants, jointly and severally, as follows:

- a. As compensatory damages each for Counts 1, 2, 3, 4, 5, 6, & 7 the sum of \$2,000,000.00 each (two million dollars); total \$14,000,000.00 (fourteen million dollars);
- b. As punitive damages each for Counts, 1, 2, 3, 4, 5, 6, & 7 the sum of \$2,000,000.00 each (two million dollars); total \$14,000,000.00 (fourteen million dollars);
- c. For all costs and disbursements of this action;
- d. For all attorney's fees incurred in prosecuting this action pursuant to 42 U.S.C. 1988;
- e. The right to amend this complaint as warranted by further evidence and fact finding;
- f. And other such further relief as to the deems proper;

## TRIAL BY JURY IS HEREBY DEMANDED.

<sup>9</sup> To make out a substantive due process claim under the state-created danger exception, a plaintiff must show that: (1) that the state by its affirmative acts, created or increased a danger that plaintiff faced; (2) that the state's failure to protect plaintiff from danger was the proximate cause of his injury; and (3) that the state's failure to protect plaintiff shocks the conscience.

<sup>10</sup> Due Process Clause imposes duty on state to protect individual from private violence (1) when state has special relationship with person, such as when it has custody over person, and (2) when state affirmatively places particular individual in position of danger that individual would not otherwise have faced.



1 July 24, 2017

2 Respectfully submitted:

3 

4 Michael Nilsen, Plaintiff Pro Se  
5 11300 W. Widgeon Way  
6 Clearlake Oaks, CA 95423

7 **VERIFICATION**

8 **Declaration of Michael Nilsen**

9 I, Michael Nilsen declare as follows:

- 10 1. I am the Plaintiff in the above entitled matter.
- 11 2. I am of age, sound of mind and competent to testify to facts based on first hand
- 12 knowledge of above items so stated.
- 13 3. I have been damaged financially, socially and emotionally as a result of Defendant's
- 14 unlawful actions and conduct.
- 15 4. I have read the foregoing pleading and know the facts therein stated to be true and
- 16 correct.
- 17 5. I declare, under penalty of perjury pursuant to the laws of California and the United
- 18 States, that the foregoing is true and correct to the best of my knowledge, information and
- 19 belief.
- 20
- 21

22 July 24, 2017

23   
24  
25 Michael Nilsen, Declarant  
26  
27  
28